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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,768	02/25/2000	Randell L. Mills	62-226-ion	6782
20736	7590	01/30/2006		EXAMINER
MANELLI DENISON & SELTER 2000 M STREET NW SUITE 700 WASHINGTON, DC 20036-3307				WELLS, NIKITA
			ART UNIT	PAPER NUMBER
				2881

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8/

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/513,768	MILLS, RANDELL L.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nikita Wells	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 28 September 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-209 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-209 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/28&29/04, 04/28/05
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The Applicant filed a “Supplemental Response to Final Office Action, Second Request to Remove Finality of March 29, 2004 Final Office Action, and Request for Continued Examination” (RCE)(Paper #24) received April 28, 2005 under 37 CFR 1.114 in reply to the Final Rejection (Paper #22). The requests for withdrawal of all previous final rejections are moot in view of the RCE (Paper #24) received April 28, 2005. The “Response to Final Office Action” (Paper #23) received September 28, 2004 was found to be “Non-Responsive” due to the incorrect consideration of the claims 17-300 which could not be matched-up to the existing claims of 1-209.

Applicant's arguments in the RCE (Paper #24) have been fully considered but they are not persuasive. The Examiner analyzed the data and found the compelling experimental evidence to be insufficient as presented. The rejections as stated in the previous Office Action (Paper #22) mailed out March 29, 2004 are still applicable to the claims and are repeated here for clarification.

#### ***Claim Rejections - 35 USC § 101***

2. Claims 1-209 stand rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well established utility. The invention is based upon assumptions that are contrary to basic, well established, laws of quantum physics and, therefore, is inoperative and lacks utility.

***Claim Rejections - 35 USC § 112***

3. Claim 1-209 stand rejected under 35 U.S.C. §112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Applicant claims that experimental data confirms that the existence of lower-energy atomic hydrogen (also referred to as "increased binding energy hydrogen" since the lower energy state results in a higher binding energy) is identified by extreme ultraviolet (EUV) spectroscopy conducted in numerous tests, which are disclosed in the Applicant's papers; and that this data demonstrates conclusively that the existence of lower energy hydrogen is not only a theoretical possibility, but is in fact a reality.

The applicant challenges the Examiner to provide an explanation of errors found in the extensive theory disclosed in the present specification and errors in the supporting experimental evidence. However, the burden of proof rests with the Applicant in that he has to show to the Examiner that the experimental evidence demonstrates the existence of a novel hydrogen species and compositions of matter comprising a new form of hydrogen that is lower in energy than unreacted atomic hydrogen that corresponds to a fractional principal quantum number replacing the interger in the Rydberg equation for hydrogen excited states.

The Examiner considered the experimental evidence, but questions the validity of the experiments as stated in the Final Rejection (see Paper #22).

As to the anomalous hydrogen line broadening recited in the experimental papers and the Applicant's claim that this is evidence of the lower energy hydrogen, there are many other

physically plausible explanations (as previously stated in Paper #22), i.e. pressure broadening (due to high pressure within a hollow cathode), resonance broadening, microwave-field broadening, and many other broadening mechanisms which are fundamentally different than Applicant's "resonance broadening" due to hydrino levels. Thus, even if Applicant's hydrino hypothesis would be assumed as physically plausible, an explanation based on a new hypothesis in the presence of a number of other plausible reasons, is highly speculative. Consequently, the experimental data as presented in the technical papers, fails to convince the Examiner as to the possible existence of a lower-energy atomic hydrogen.

However, not only is the hydrino hypothesis highly speculative, but physically wrong, because it is based on many misunderstandings of conventional quantum mechanics, electromagnetic theory and the theory of relativity, as pointed out in detail in the Appendix of Paper #22.

*Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita Wells whose telephone number is (571) 272-2484. The examiner can normally be reached on 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571) 272-2477. The central fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nikita Wells, Primary Examiner  
Art Unit 2881  
January 23, 2006